

**Notice of Allowability**

Application No.

10/748,632

Examiner

Derek L. Dupuis

Applicant(s)

MADER ET AL.

Art Unit

2883

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/1/2006.
2. ☒ The allowed claim(s) is/are 16-20 and 22-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
BRIAN HEALY

PRIMARY PATENT EXAMINER

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Christopher Goodman (Reg. No. 34,338) on 2/9/2007.

The application has been amended as follows:

Please cancel claims 1-10.

In line 6 of claim 24, please insert the words --of a type other than a XENPAK board-- in between the word "board" and the word "positioned".

### *Election/Restrictions*

2. Claim 16 is allowable. The election of species requirement between Species A, B, and C, as set forth in the Office action mailed on 7/28/2005, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claim 18, directed to Species B is no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim. Claim 22, directed to Species A is no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or

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includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

***Response to Amendment***

3. The declaration filed on 12/1/2006 under 37 CFR 1.131 is sufficient to overcome the Scheibenreif reference. The rejections based on the Scheibenreif reference are hereby withdrawn.

***Response to Arguments***

4. Applicant's arguments, see pages 9-11, in combination with the amendment to the claims filed 12/1/2006, with respect to the rejection of claims 16, 17, and 19-20 under 35 U.S.C. 103 have been fully considered and are persuasive. The rejection of claims 16, 17, and 19-20 has been withdrawn.

5. Regarding the double patenting rejection made in the previous office actions. The examiner has further considered this rejection and has determined that with the inclusion of applicant's amendment, double-patenting does not exist between this application and the '982 application and the '122 patent. The double-patenting rejection is hereby withdrawn.

***Allowable Subject Matter***

6. Claims 16-20 and 22-28 are allowed.

7. The following is an examiner's statement of reasons for allowance:

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8. Claim 16 is allowable over the prior art of record because the latter, either alone or in combination, does not disclose nor render obvious an optical communication system comprising a XENPAK sized optical communications adapter module housing, an optical communications board assembly of a type other than a XENPAK board assembly being positioned within the module housing, a first optical connector coupled with the optical communications board assembly for data transmission, a second optical connector positioned in connector openings of the module housing, and a first optical conversion cord adapted to couple the first optical connector to the second optical connector in combination with the rest of the claimed limitations.

9. Claims 17-20, 22, and 23 are dependent upon claim 16 and are thereby allowable for the same reasons.

10. Claim 24 is allowable over the prior art of record because the latter, either alone or in combination, does not disclose nor render obvious an optical communication system comprising a XENPAK sized optical communications adapter module housing having an opening adapted to receive a second optical connector, an optical communications board of a type other than a XENPAK board, a first optical connector coupled with the optical communications board spaced a distance from the opening, and an optical conversion cord coupled at a first end to the first optical connector and coupled at a second end to the second optical connector in combination with the rest of the claimed limitations.

11. Claims 25-28 are dependent upon claim 24 and are thereby allowable for the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek L. Dupuis whose telephone number is (571) 272-3101. The examiner can normally be reached on Monday - Friday 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Group Art Unit 2883



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